




INTERNAL MANAGEMENT POLICY & PROCEDURE	SECTION NUMBER 02-110	PAGE NUMBER 1 of 10
	CHAPTER & SUBJECT: HUMAN RESOURCES: Use of Alcohol, Illegal Drugs and/or Controlled Substances by Employees, Contract Personnel, and Volunteers	
Approved By:  Commissioner of the Juvenile Justice Authority		Original Date Issued: 04/02/01
		Current Amendment Effective: 12/26/06
		Replaces Amendment Issued: 11/04/04

POLICY

In order to preserve the security of the Juvenile Justice Authority and to protect the personal safety of fellow employees, interns, volunteers, juveniles, and the general public; employees, contract personnel, interns, and volunteers shall not be permitted to perform their duties or enter upon the premises of juvenile correctional facilities or central office while under the influence of alcohol, the illegal use of drugs, and/or controlled substances, except as specifically allowed under agency policy or approved by the appointing authority. (2-CO-1C-20; 3-JTS-1C-17)

DEFINITIONS

Alcohol: The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols, including methyl or isopropyl alcohol.

Alcohol Concentration: The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath, as indicated by a breath test.

Alcohol Use: The consumption of any beverage, preparation, or mixture, including any medication, containing alcohol.

Appointing Authority: As defined in IMPP 02-109, Designation of Appointing Authorities, any person or group of persons empowered by the constitution, by statute, or by lawfully delegated authority to make appointments to positions in the State service pursuant to K.A.R. 1-2-9, Appointing Authority. Anytime this term is used in this policy, it shall be read as referring to the "appointing authority or designee."

Commercial Driver (CD) Position: Any position that is subject to the State of Kansas Alcohol and Controlled Substance Testing Program for Commercial Drivers, established under the Federal Omnibus Transportation Employees Testing Act of 1991. This includes any position performing duties, which involve the operation of a motor vehicle with a gross weight of over 26,000 pounds or designed to carry 16 or more passengers, including the driver.

Controlled Substances: Marijuana/cannabinoids (THC), cocaine metabolites, opiates, phencyclidine (PCP), amphetamines/methamphetamine.

Contract Personnel: Any person employed by an entity under contract to provide services to the Juvenile Justice Authority.

Designee: For the purposes of this IMPP, any person approved by the Department of Administration's Division of Personnel Services and the Juvenile Justice Authority's Central Office Human Resources Division to receive the results of employees' drug or alcohol tests.

Director: Director of Division of Personnel Services, Department of Administration. When the term "Director" is used in this policy, it means the Director or designee.

Employee: For the purposes of this policy, any person employed full-time or part-time by the Kansas Juvenile Justice Authority. The term shall not include any personnel employed by an entity under contract to provide services to the Kansas Juvenile Justice Authority.

Governor's Trainee: A person employed under the provisions of the Governor's Trainee Program as defined by K.A.R. 1-6-31, Recruitment. Such program is intended to attract and provide career development opportunities for persons in certain protected group classes that are determined to be underutilized in a civil service class series or EEO job category within the agency.

Reasonable Suspicion: A subjective suspicion supported by objective, articulable facts that would lead an experienced and prudent person to suspect that an individual has consumed alcohol and/or illegal drugs.

Safety-Sensitive Position: All juvenile corrections officers and all state employees with access to secure facilities of a juvenile correctional institution.

State Plan: State of Kansas Alcohol and Controlled Substance Testing Program for Commercial Drivers.

Substance Abuse Professional: A licensed physician, or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substance related disorders.

Volunteer: Any person who works at a juvenile correctional facility or for JJA on a voluntary basis (including interns).

PROCEDURE

I. Use or Suspicion of Use of Alcohol or Illegal Drugs by Employees, Contract Personnel, and Volunteers

- A. No employee, contract personnel, intern or volunteer shall enter into or upon the grounds of a juvenile correctional facility, central office, or JJA premises who appears to be or is under the influence of alcohol or illegal drugs.
 - 1. The determination of the appearance of an employee, contract personnel, intern, or volunteer being under the influence of alcohol or illegal drugs shall be made following the observation and reporting of suspicion/concern regarding the employee, intern, or volunteer by at least two (2) other staff persons.
 - 2. No employee, contract personnel, intern, or volunteer shall report for duty within six (6) hours of consuming alcohol or at any time with the odor of alcohol on his or her breath.
 - 3. While on duty, no employee shall be under the influence of or engage in the use of drugs, alcohol, or other intoxicants.
- B. Employees, contract personnel, interns, and volunteers shall report to their immediate supervisors the name of any employee, contract personnel, intern, or volunteer who reports for duty or enters upon the grounds of a juvenile correctional facility, central office, or other JJA premises, whether on duty or off duty, who is suspected of being under the influence of alcohol or the illegal use of a controlled substance.
 - 1. All such reports shall be advanced through established lines of authority within the employee's, contract personnel's, intern's or volunteer's work facility or central office.
 - a. In the event of an evening or weekend, the Facility Duty Officer shall be notified.
 - 2. Employees, contract personnel, interns, or volunteers who have knowledge or a reasonable suspicion of another person's use or abuse of alcohol or the illegal use of a controlled

substance which may affect that person's ability to perform assigned duties, or which may affect the safety or security of the facility, staff, interns, volunteers, or juveniles, shall be required to report such knowledge or suspicion.

3. An employee's failure to report such knowledge or reasonable suspicion to the immediate supervisor or the Facility Duty Officer shall be cause for disciplinary action.
 - a. Failure of contract personnel, interns, or volunteers to report such knowledge or reasonable suspicion to the immediate supervisor or the Facility Duty Officer may result in that person being permanently barred from JJA premises.

II. Screening of Candidates for Safety-Sensitive Positions (2-CO-1C-20; 3-JTS-1C-17)

- A. All candidates selected for hire into designated safety sensitive positions, excluding those transferring, promoting, or demoting from other designated safety sensitive positions, shall undergo pre-employment screening for the use of controlled substances.
 1. The offer of employment in a designated safety sensitive position is conditioned upon the candidate receiving a negative result on a controlled substances test. Positive test results shall result in the conditional offer of employment being withdrawn.
 2. All screening for controlled substances shall be in accordance with the provisions of K.A.R. 1-9-19a.

III. Reasonable Suspicion Screening for the Illegal Use of a Controlled Substance by Persons in Safety Sensitive Positions (See Attachment A) (2-CO-1C-20; 3-JTS-1C-17)

- A. All persons employed in safety sensitive positions, as defined by K.S.A. 75-4362(g), are subject to screening for the illegal use of controlled substances based upon reasonable suspicion of such use (as defined in K.A.R. 1-9-19a(1)) by that employee. When reasonable suspicion exists:
 1. The employee shall be informed in writing that submitting to drug screening is a condition of continued employment.
 - a. The written notice shall contain information specific to the basis for the reasonable suspicion, methods of drug screening which may be used, substances which may be identified, confidentiality of individual test results, and consequences of refusing or otherwise failing to submit to the drug screen or to sign consent forms.
 2. The human resources office of the employing facility or office shall schedule a drug screening appointment with an approved drug screen program collection site within twenty-four (24) hours of the suspected actions or of the discussion with the employee, give the employee verbal and written notice of the time and location of the test, and request the employee sign and date a Consent and Acknowledgment Form.

If reasonable suspicion exists that the employee is currently under the influence of a controlled substance:

- a. The employee shall be directed to remain in a designated safe location within central office or juvenile correctional facility and not allowed to participate in any work activity until transportation to his/her home or to the testing site can be arranged;
- b. The employee shall be given a direct order prohibiting him/her from operating a motor vehicle to leave the site;
- c. If the person attempts or indicates an intention to operate any motor vehicle, the appointing authority or designee shall notify local law enforcement authorities and shall advise the person of the notification;

- d. The employee shall not be allowed to return to duty until the agency receives the drug screening results.
- 3. Refusing or otherwise deliberately failing to participate in the drug screen process shall subject the employee to formal disciplinary action.
- 4. If the employee's drug screen is a confirmed positive for the illegal use of a controlled substance and it is the employee's first confirmed positive, the employee shall be required to contact the Employee Assistance Program (Lifeline) within twenty-four (24) hours and shall be required to participate in, and successfully complete, a course of treatment prescribed by the Lifeline or a designee.

OR

If the employee is on temporary or Governor's Trainee (original appointment) status, on an original probationary period, or has previously had a confirmed positive drug screen for the illegal use of a controlled substance, a confirmed positive result shall be cause for proposing dismissal.

- a. No other disciplinary action may be taken against the employee as a direct consequence of receiving a confirmed positive result. However, nothing in this policy prohibits the employee from being subject to disciplinary action for improper or illegal acts performed while under the influence of the illegal use of a controlled substance.
- 5. If the employee's drug screen is negative for the illegal use of a controlled substance, the Director of Human Resources/Human Resources Manager shall notify the employee that he/she shall immediately return to duty at his or her regular work schedule.
- C. Testing for alcohol impairment and any resulting assessment, treatment, and discipline of persons employed in safety sensitive positions anywhere in the agency shall be in accordance with the provisions of Sections IV. and V. as they relate to contract personnel and volunteers anywhere in the agency and employees in non-safety sensitive positions.

IV. Reasonable Suspicion Testing of Contract Personnel, Interns, and Volunteers Employed Anywhere Within the Juvenile Justice Authority and of Employees In Non-Safety-Sensitive Positions (See Attachment B) (2-CO-1C-20; 3-JTS-1C-17)

- A. Testing for the illegal use of controlled substances and/or on the job use or being under the influence of alcohol shall only be conducted on the basis of reasonable suspicion.
 - 1. The appointing authority or designee may demand a urine, blood, saliva, or breath specimen from an employee/contract personnel/interns/volunteer for chemical analysis if there is a reasonable suspicion that the employee/contract personnel/intern/volunteer is under the influence of the illegal use of a controlled substance. The appointing authority or designee may demand a blood or breath specimen from an employee/contract personnel/intern/volunteer for chemical analysis if there is a reasonable suspicion that the employee/contract personnel/intern/volunteer is under the influence of alcohol. Under no circumstances shall urine or saliva specimens be used for testing for the use of alcohol by an employee/contract personnel/intern/volunteer.
 - a. All positive urine tests shall be sent to an independent laboratory as soon as possible for analysis.
 - b. Qualified medical personnel shall draw all blood specimens.
 - (1) All blood specimens shall be forwarded to an independent laboratory for analysis as soon as possible after the specimen is drawn.

- c. All breath specimen tests for alcohol shall be conducted using test kits approved by the Commissioner or designee for use with employees.
 - (1) A confirmation of the breath specimen test results for alcohol through a blood specimen analysis is not necessary.
 - d. All positive saliva specimen tests shall be confirmed through the collection of either a urine or blood specimen for the illegal use of a controlled substance, or a blood specimen for alcohol use, which shall be sent to an independent laboratory as soon as possible for analysis.
- 2. The demand for a urine, blood, saliva, or breath specimen shall be made utilizing the Acknowledgment of Demand for a Urine, Blood, Saliva, or Breath Specimen for Analysis and/or Laboratory Test Results form.
 - 3. The employee/contract personnel/intern/volunteer may refuse to cooperate with the appointing authority or designee's demands for a urine, blood, saliva, or breath specimen for chemical analysis.
 - a. An employee who refuses to produce the required sample shall be denied access to or removed from JJA premises and shall be subject to disciplinary action for refusal to obey a direct order.
 - b. Contract personnel, interns, or volunteers who refuse to produce the required sample shall be denied access to or removed from JJA premises and shall be subject to being barred from all JJA premises.
 - 4. Upon an initial positive test result, an employee shall not be allowed upon JJA premises, and shall be removed from his/her employment with pay until the employee's pay status is changed in accordance with the Civil Service Act.
 - a. The results of tests conducted by an independent laboratory may be demanded by the appointing authority using the Acknowledgment of Demand for a Urine, Blood, Saliva, or Breath Specimen for Analysis and/or Laboratory Test Results form.
 - b. Any disciplinary action relative to a positive result for one or more controlled substances shall be deferred until independent laboratory work is completed and it is determined that the initial positive test has been confirmed.
 - 5. Upon an initial positive test result, contract personnel, an intern, or a volunteer shall not be allowed upon JJA premises until such time as the results of the confirmation test by an independent laboratory is completed.
- B. If an employee tests positive to a saliva, urine, or breath on-site test:
- 1. He/she shall be directed to remain in a designated safe location within central office or the juvenile correctional facility and not allowed to participate in any work activity until transportation to his or her home or to a testing site can be arranged;
 - 2. The employee shall be given a direct order prohibiting him/her from operating any motor vehicle to leave the site;
 - 3. If the person attempts or indicates an intention to operate a motor vehicle, the appointing authority or designee shall notify the local law enforcement authorities and shall advise the person of the notification;
 - 4. When testing is done due to reasonable suspicion of the illegal use of a controlled substance, the employee shall not be allowed to return to duty until the agency receives the testing results from an independent laboratory.

- C. If a contract employee, an intern, or a volunteer test positive to a saliva, urine, or breath on-site test, his or her supervisor will be notified and shall immediately assume responsibility for the person.
 - 1. If the contract employee, intern, or volunteer refuses to report to his or her supervisor and attempts or indicates an intention to operate a vehicle, the appointing authority or designee shall notify the local law enforcement authorities and advise the person of the notification;
 - 2. If testing by an independent laboratory confirms a positive result, the person shall be banned from all juvenile correctional facilities and JJA premises.

V. Assessment, Treatment, and Discipline of Employees in Non-Safety Sensitive Positions and Contract Personnel and Volunteers. (2-CO-1C-20; 3-JTS-1C-17)

- A. Upon a confirmed positive test, an employee on original probationary, temporary, or Governor's Trainee status shall be subject to dismissal.
- B. Upon a confirmed positive test, employees with permanent civil service status may be subject to disciplinary action up to and including dismissal. In making this determination, consideration should be given to:
 - 1. The level of impairment;
 - 2. Prior positive screens or the equivalent; and,
 - 3. Participation in and successful completion of a treatment program.
- C. The appointing authority shall not be precluded from proposing disciplinary action for other circumstances that occurred in addition to the confirmed positive drug/intoxicant screen if those instances are normally considered grounds for discipline.
- D. Upon a confirmed positive test, contract personnel, interns, and volunteers shall be subject to being barred from JJA premises by the appropriate appointing authority.
 - 1. Contract personnel may be permanently barred from JJA premises on the basis of the confirmed positive results. In making this determination, consideration should be given to:
 - a. The level of impairment;
 - b. Prior positive screens or the equivalent; and,
 - c. Participation in and successful completion of a treatment program.
 - (1) At the discretion of the appropriate appointing authority, contract personnel may return to work while participating in an approved treatment program.
 - 2. Upon barring specific contract personnel from JJA premises, an appointing authority shall notify the contracting agent by registered mail or personal service that:
 - a. The specified contract personnel has been barred from entering JJA premises; and,
 - b. The specific reasons for excluding the contract personnel.
 - 3. Barring an intern or volunteer from JJA premises by an appointing authority on the basis of the above considerations shall be permanent.
 - a. Notification of such action shall be distributed to other appointing authorities within the agency.

VI. Notification and Records

- A. The following forms shall be completed and retained in accordance with the State Drug Plan and/or JJA policy:
 - 1. Each candidate for or employee assigned to a designated safety-sensitive position anywhere in the agency shall read, sign, and date a copy of the Affirmation of Policy Form when being oriented about the State Drug Plan and prior to any testing for the illegal use of controlled substances being conducted.
- B. Each candidate for or employee assigned to a designated safety-sensitive position anywhere in the agency who is asked to submit to testing for the illegal use of controlled substances shall read, sign, and date a Consent and Acknowledgment Form.
- C. Each employee assigned to a designated safety-sensitive position anywhere in the agency, who is required to undergo an assessment and referral for education or treatment, shall read, sign, and date a Release of Information Form.
- D. Each candidate for or employee assigned to a designated safety-sensitive position anywhere in the agency requesting access to records concerning that individual's tests for the illegal use of controlled substances shall read, sign, and date an Access to Records Form.
- E. Each candidate for or employee assigned to a designated safety-sensitive position anywhere in the agency who is required to submit to testing for the illegal use of controlled substances shall be notified of the date, time, and location of the testing appointment by the Drug Screening Program Appointment Notice Letter.
- F. Each candidate for a designated safety-sensitive position anywhere in the agency who has been given a conditional offer of employment and whose test results are negative for the illegal use of controlled substances shall be informed that the conditional offer of employment is approved by the Notice to Candidate of Negative Result Form.
- G. Each candidate for a designated safety-sensitive position anywhere in the agency who has been given a conditional offer of employment and whose test results are positive for the illegal use of controlled substances shall be notified that the conditional offer of employment is rescinded by the Notice to Candidate of Positive Result Form.
- H. Each employee assigned to a designated safety-sensitive position anywhere in the agency who is tested for the illegal use of controlled substances and who has tested negative shall be informed that an evaluation referral is not required based on the negative result of the test by the Notice to Employee of Negative Result Form.
- I. Each employee assigned to a designated safety-sensitive position anywhere in the agency who is tested for the illegal use of controlled substance and who has tested positive shall be informed that an evaluation referral is mandatory by using the Notice to Employee of Positive Result Form.
- J. Records of employees sent for alcohol and/or controlled substance testing shall be maintained by juvenile correctional facility Human Resources offices for juvenile correctional facility candidates and employees.
 - 1. Records of testing and subsequent results shall be maintained under strict security and treated as confidential records.
 - 2. Access to the records shall be restricted to Human Resources staff, JJA Director of Human Resources or designee, the appointing authority, the Secretary of Administration or designee, the Director of the Department of Administration's Division of Personnel Services, the employee's supervisor, the agency's legal counsel, or the Department of Administration's legal counsel.

- a. No further access to the records may be authorized without the express consent of the Director of the Department of Administration's Division of Personnel Services.
- b. Test results may be disclosed publicly in Civil Service Board Hearings regarding disciplinary action taken against an employee as a result of a second positive result or as a result of actions taken while illegally under the influence of a controlled substance.

VII. This IMPP shall serve as final policy for the Juvenile Justice Authority and facility operations orders shall not be allowed on this subject.

NOTE: The policy and procedures set forth herein are intended to establish directives and guidelines for staff and juveniles and those entities who are contractually bound to adhere to them. They are not intended to establish State created liberty interests for employees or juveniles or an independent duty owed by the Juvenile Justice Authority to employees, juveniles, or third parties. This policy and procedure is not intended to establish or create new constitutional rights or to enlarge or expand upon existing constitutional rights or duties.

REPORTS REQUIRED

None.

REFERENCES

K.S.A. 21-3826, 75-2940, 75-2949, 1998 Supp. 75-4362
K.A.R. 1-6-2, 1-6-7, 1-6-31, 1-6-32, 1-9-19a, 44-2-103
ACA: 2-CO-1C-20
JTS: 3-JTS-1C-17
IMPP 02-109
State of Kansas Drug Screening Administrative Procedures and Reference Manual

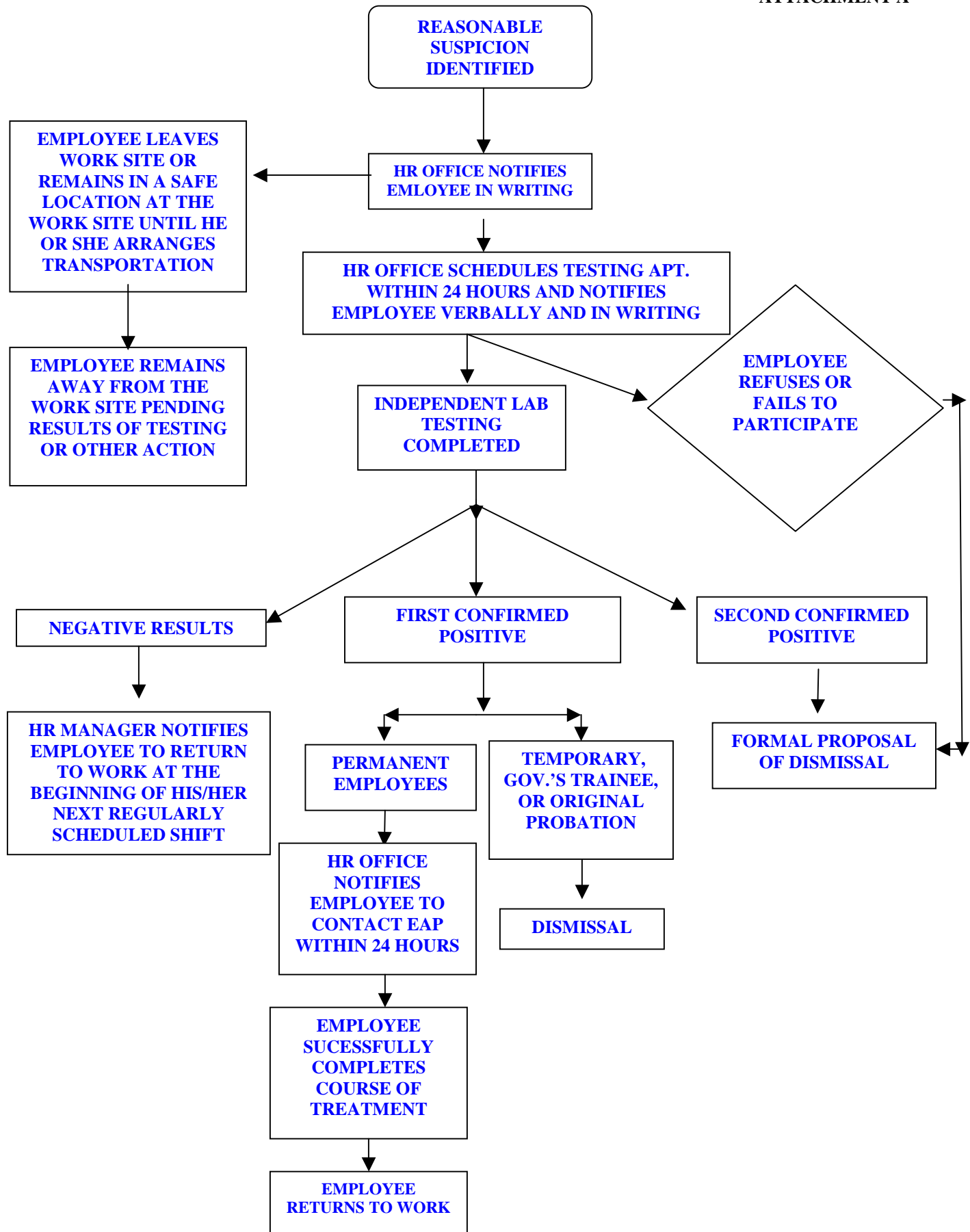
ATTACHMENTS

Attachment A: Drug Program Flow Chart I, 1 Page.
Attachment B: Drug/Alcohol Program Flow Chart II, 1 Page.

**REASONABLE SUSPICION DRUG
TESTING FOR PERSONS IN
SAFETY SENSITIVE POSITIONS**

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ATTACHMENT A



**REASONABLE SUSPICION ALCOHOL TESTING
FOR EMPLOYEES AT CORRECTIONAL
FACILITIES DRUG AND ALCOHOL TESTING
FOR EMPLOYEES IN NON- SAFETY SENSITIVE
POSITIONS**

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ATTACHMENT B

